UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE ROBINSON #427705,

        Plaintiff,   Case No. 05-70751

v.   District Judge Gerald E. Rosen
                                     Magistrate Judge R. Steven Whalen

WAYNE COUNTY JAIL, et al.,

        Defendants.
_____/

ORDER

Before the Court are Plaintiff's two motions for leave to file amended and supplemental pleadings [Docket #13 and #15], both filed on November 22, 2005. (Docket #15 appears to be a discovery motion rather than a motion to amend).

Fed.R.Civ.P. 15(a) states that after a responsive pleading is filed, a complaint may be amended only by leave of the court, and that "leave shall be freely given when justice so requires." However, despite the general rule of liberality with which leave to file amended complaints is to be granted, the Sixth Circuit has held that when a proposed amended complaint would not survive a motion to dismiss, the court may properly deny the amendment. *Neighborhood Development Corp. v. Advisory Council on Historic Preservation*, 632 F.2d 21, 23 (6th Cir. 1980); *Thiokol Corporation v. Department of*

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Treasury, 987 F.2d 376 (6th Cir. 1993).

On September 5, 2006, the undersigned filed a Report and Recommendation (R&R) that this Complaint be dismissed with prejudice. The amendments to the complaint sought by Plaintiff would not alter the decision to dismiss the case, and thus can be considered futile. In addition, to the extent that Plaintiff requests discovery in Docket #15, that request would be mooted by the dismissal of the complaint.

Accordingly, Plaintiff's motions for leave to file amended and supplemental pleadings [Docket #13 and #15] are DENIED.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: September 6, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on September 6, 2006.

S/G. Wilson
Judicial Assistant